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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,419	04/12/2004	Yu-Chung Chang	P-1003-US	2565

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EXAMINER	
GRAY, PHILLIP A	

ART UNIT	PAPER NUMBER
3767	

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/822,419	CHANG, YU-CHUNG	
	Examiner	Art Unit	
	Phillip Gray	3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,7 and 8* is/are pending in the application.

4a) Of the above claim(s) *8* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to communication of 9/4/2006, (invention of figure 1). Currently amended claims 1, 2, and 7 are pending and rejected. Further claim 8, newly added claim to a method of drug delivery, is withdrawn from examination. See rejection below.

Response to Amendment

Newly submitted claim 8 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claim is directed to a drug delivery method and the original elected invention is directed to a "T" shaped catheter (which is unrelated).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 8 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

Applicant's arguments with respect to claim 1,2, and 7 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., two separate independent reflux valves in *each* of the chambers) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over French et al. (U.S. Patent Number 6,095,997) in view of Patnaik (U.S. Patent Number 5,728,751).

French et al discloses a device that is a quasi-T shaped catheter (see figures 1-4) for delivering drugs to a vessel, comprising: a first chamber positioned at one limb of said quasi-T shaped catheter and having a first portal for delivering the drugs (22a); a second chamber positioned at another limb of said quasi-T shaped catheter opposite to the first chamber and having a second portal for delivering the drugs (22b); and a third chamber positioned at the other limb of the quasi-T shaped catheter and having a third portal for infusing drugs (34); wherein said quasi-T shaped catheter is formed as an integral piece (10,30) and said first, second and third chambers are in communication with each other (figure 1), and the first portal and the second portal are to be inserted

into the vessels (figure 3). French discloses quasi-T shaped catheter formed of biocompatible materials (paragraph at column 6, line 20), wherein the cross sections of said first chamber and said second chamber are of an annular shape (figure 1A, elements 29,28,22,21) and first chamber and said second chamber further comprises an anti-reflux valve (50). Further French discloses a catheter wherein said first chamber and second chamber each has a length between 3 and 10 cm (paragraph at column 9, line 20).

French discloses the claimed invention except for an anti-coagulation coating is applied to its interior surface. Patnaik teaches that it is known to use an anti-coagulation coating applied to an interior surface as set forth in paragraphs at columns 10-11, to provide an anti-infective and an anti-thrombogenic action surface to the drug delivery device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the drug delivery device as taught by French with an anti-coagulation coating applied to an interior surface as taught by Patnaik, since such a modification would provide the drug delivery device with an anti-coagulation coating applied to an interior surface for providing an anti-infective and an anti-thrombogenic action surface to the drug delivery device.

If not an inherent size embodiment of French (in view of Patnaik), it would be an obvious modification to have a first chamber length between 5 and 9 cm and second chamber length between 5 and 9 cm and a third chamber length between 15-30 cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the size variations to the lengths of 5 to 9 cm and 15-30 cm, since

such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose, 105 USPQ 237 (CCPA 1955)*. These size lengths are within the normal ranges for catheters and other devices which are placed in the body and are not out of the normal to those skilled in the art.

It is examiners position that the French device does satisfy the amended claim limitation of "said first chamber and second chamber each comprising an anti-reflux valve", since oneway valve 50 is positioned in each of the chambers. During examination, claim limitations are to be given their broadest reasonable reading. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404-1405, 162 USPQ 541, 550-51 (CCPA 1969). However, in the alternative, if the claim limitations are narrowly connotated, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have two separate one-way reflux valves in each of the chambers, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co., 193 USPQ 8 (CA7 1977)*.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571) 272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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